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*Attorneys for Defendants Stephan Jenkins,
individually and doing business as 3EB Publishing,
and Third Eye Blind, Inc., a California corporation*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

KEVIN CADOGAN, an individual,
Plaintiff,

v.

STEPHAN JENKINS, an individual; THIRD
EYE BLIND, INC., a California corporation;
3EB PUBLISHING, an unknown entity; and
DOES 1-20,
Defendants.

CASE NO. 3:18-CV-06342 (JCS)

**DEFENDANTS' ANSWER TO
COMPLAINT OF KEVIN CADOGAN
DEMAND FOR JURY TRIAL**

Hon. Joseph C. Spero, Presiding
(E-filing)

COME NOW Defendants Stephan Jenkins, individually and doing business as 3EB
Publishing ("Jenkins"), and Third Eye Blind, Inc., a California corporation ("TEB")
(collectively, "Defendants"), and, in answer to the complaint of Plaintiff Kevin Cadogan
("Plaintiff" or "Cadogan"), admit, deny and allege as follows:

NATURE OF THE ACTION

1. Answering the allegations of Paragraph 1 of the Complaint, Defendants admit: (i)
that Plaintiff's Complaint is an action for declaratory relief, accounting and unjust enrichment;
(ii) that Defendants dispute Plaintiff's authorship of, and entitlement to revenue generated by,
the sound recordings alleged; and (iii) that Defendants claim ownership to digital performance

DEFENDANTS' ANSWER TO PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL

royalties which are collected and distributed by SoundExchange. Defendants deny each and every one of the remaining allegations of Paragraph 1 of the Complaint.

PARTIES

2. Answering the allegations of Paragraph 2 of the Complaint, Defendants admit that Cadogan is a California resident. Defendants deny each and every one of the remaining allegations of Paragraph 2 of the Complaint.

3. Answering the allegations of Paragraph 3 of the Complaint, Defendants admit: (i) that Jenkins is a California resident; (ii) that Jenkins created, formed and founded the rock band Third Eye Blind and is its lead vocalist; and (iii) that Jenkins resides in this judicial district. Defendants deny each and every one of the remaining allegations of Paragraph 3 of the Complaint.

4. Defendants admit the allegations of Paragraph 4 of the Complaint.

5. Answering the allegations of Paragraph 5 of the Complaint, Defendants deny that 3EB Publishing is an unknown entity; 3EB Publishing is a fictitious business name of Jenkins. Defendants are without sufficient information or knowledge to admit or deny the remaining allegations of Paragraph 5 of the Complaint and, on that basis, deny each and every one of the remaining allegations of the said Paragraph 5.

6. To the extent Paragraph 6 of the Complaint consists of legal conclusions, Defendants are not required to respond. To the extent that Paragraph 6 contains factual allegations concerning defendants DOES 1 through 20, Defendants are without sufficient information or knowledge to admit or deny the said allegations and, on that basis, deny each and every one of those allegations.

7. To the extent Paragraph 7 of the Complaint consists of legal conclusions, Defendants are not required to respond. To the extent that Paragraph 7 contains factual allegations concerning defendants DOES 1 through 20, Defendants are without sufficient information or knowledge to admit or deny the said allegations and, on that basis, deny each and every one of those allegations.

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JURISDICTION AND VENUE

8. To the extent Paragraph 8 of the Complaint consists of legal conclusions, Defendants are not required to respond. Answering the factual allegations of Paragraph 8 of the Complaint, Defendants admit that Plaintiff's Complaint seeks declaratory relief. Defendants are without sufficient information or knowledge to admit or deny the remaining allegations of Paragraph 8 and, on that basis, deny each and every one of those remaining allegations.

9. Paragraph 9 of the Complaint consists of legal conclusions, to which Defendants are not required to respond.

10. Defendants admit the allegations of Paragraph 10 of the Complaint.

11. Defendants admit the allegations of Paragraph 11 of the Complaint.

12. Defendants admit the allegations of Paragraph 12 of the Complaint.

STANDING

13. Paragraph 13 of the Complaint consists of legal conclusions, to which Defendants are not required to respond. To the extent that Paragraph 13 contains factual allegations, Defendants deny each and every one of those allegations.

FACTS AND ALLEGATIONS

14. Defendants admit the allegations of Paragraph 14 of the Complaint.

15. To the extent Paragraph 15 of the Complaint consists of legal conclusions, Defendants are not required to respond. Answering the factual allegations of Paragraph 15 of the Complaint, Defendants admit: (i) that Cadogan signed one or more recording contracts; (ii) that Third Eye Blind's 1997 self-titled debut album was certified platinum six times; and (iii) that Third Eye Blind's 1997 self-titled debut album sold over six million copies. Defendants deny each and every one of the remaining allegations of Paragraph 15.

Re-release of the 3eb Debut Album

16. Answering the allegations of Paragraph 16 of the Complaint, Defendants admit that a 20th anniversary edition of Third Eye Blind's debut album was released and that the said edition included previously unreleased songs. Defendants are without sufficient information or knowledge to admit or deny the remaining allegations of Paragraph 16 and, on that basis, deny

1 each and every one of those remaining allegations.

2 17. To the extent Paragraph 17 of the Complaint consists of legal conclusions,
3 Defendants are not required to respond. Answering the factual allegations of Paragraph 17 of the
4 Complaint, Defendants admit that the 4 Sound Recordings were recorded. Defendants deny each
5 and every one of the remaining allegations of Paragraph 17 of the Complaint. To the extent the
6 allegations of Paragraph 17 of the Complaint suggest that rights in and to the 4 Sound
7 Recordings are owned, in whole or in part, by Cadogan, Defendants specifically deny each and
8 every one of the said allegations.

9 18. To the extent Paragraph 18 of the Complaint consists of legal conclusions,
10 Defendants are not required to respond. Answering the factual allegations of Paragraph 18 of the
11 Complaint, Defendants deny each and every one of the allegations of Paragraph 18 of the
12 Complaint. To the extent the allegations of Paragraph 18 of the Complaint suggest that rights in
13 and to the 4 Sound Recordings are owned, in whole or in part, by Cadogan, Defendants
14 specifically deny each and every one of the said allegations.

15 19. To the extent Paragraph 19 of the Complaint consists of legal conclusions,
16 Defendants are not required to respond. Answering the factual allegations of Paragraph 19 of the
17 Complaint, Defendants are without sufficient information or knowledge to admit or deny the
18 allegations of Paragraph 19 and, on that basis, deny each and every one of those allegations. To
19 the extent the allegations of Paragraph 19 of the Complaint suggest that rights in and to the 4
20 Sound Recordings are owned, in whole or in part, by Cadogan, Defendants specifically deny
21 each and every one of the said allegations.

22 20. To the extent Paragraph 20 of the Complaint consists of legal conclusions,
23 Defendants are not required to respond. Answering the factual allegations of Paragraph 20 of the
24 Complaint, Defendants admit that the 4 Sound Recordings are distributed by Rhino
25 Entertainment Company, a Warner Music Group Company. Defendants are without sufficient
26 information or knowledge to admit or deny the remaining allegations of Paragraph 20 and, on
27 that basis, deny each and every one of those remaining allegations.

28 21. Defendants deny each and every one of the allegations of Paragraph 21 of the

1 Complaint.

2 22. To the extent Paragraph 22 of the Complaint consists of legal conclusions,
3 Defendants are not required to respond. Answering the factual allegations of Paragraph 22 of the
4 Complaint, Defendants deny that Defendants were required to consult with or seek consent from
5 Cadogan with regards to: (a) exploitation of the 4 Sound Recordings; or (b) entering into any
6 agreement with WB Records or Rhino to exploit the 4 Sound Recordings and deny any and all
7 further remaining allegations of the said Paragraph 22.

8 23. Answering the factual allegations of Paragraph 23 of the Complaint, Defendants
9 deny that Defendants were required to account to Cadogan for proceeds from the 4 Sound
10 Recordings. Defendants deny each and every one of the remaining allegations of Paragraph 23.

11 24. Answering the factual allegations of Paragraph 24 of the Complaint, Defendants
12 deny that Defendants were required to account to Cadogan for royalties or advances from the 4
13 Sound Recordings and deny any and all further remaining allegations of the said Paragraph 24.

14 25. To the extent Paragraph 25 of the Complaint consists of legal conclusions,
15 Defendants are not required to respond. Answering the factual allegations of Paragraph 25 of the
16 Complaint, Defendants deny that Cadogan has a right to examine Defendants' books and
17 records, and further deny that Cadogan is owed any money for the 4 Sound Recordings, as
18 alleged or at all. Answering the remaining allegations of the said Paragraph 25, Defendants deny
19 each and every one of the said remaining allegations.

20 26. To the extent Paragraph 26 of the Complaint consists of legal conclusions,
21 Defendants are not required to respond. Answering the factual allegations of Paragraph 26 of the
22 Complaint, Defendants deny that Cadogan is owed any money for the 4 Sound Recordings, as
23 alleged or at all. Answering the remaining allegations of the said Paragraph 26, Defendants deny
24 each and every one of the said remaining allegations.

25 27. Defendants deny each and every one of the allegations of Paragraph 27 of the
26 Complaint, and specifically deny that Cadogan is entitled to an accounting or to compensation
27 for the 4 Sound Recordings, as alleged or at all.

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1 **SoundExchange**

2 28. Answering the allegations of Paragraph 28 of the Complaint, Defendants admit
3 that SoundExchange collects and distributes digital performance royalties. Defendants are
4 without sufficient information or knowledge to admit or deny the remaining allegations of
5 Paragraph 28 and, on that basis, deny each and every one of those remaining allegations.

6 29. Answering the allegations of Paragraph 29 of the Complaint, Defendants admit
7 that SoundExchange collects and distributes digital performance royalties. Defendants are
8 without sufficient information or knowledge to admit or deny the remaining allegations of
9 Paragraph 29 and, on that basis, deny each and every one of those remaining allegations.

10 30. To the extent Paragraph 30 of the Complaint consists of legal conclusions,
11 Defendants are not required to respond. Answering the factual allegations of Paragraph 30 of the
12 Complaint, Defendants admit that SoundExchange collects and distributes digital performance
13 royalties, and Defendants deny that Cadogan is a “featured artist” on Third Eye Blind sound
14 recordings. Defendants are without sufficient information or knowledge to admit or deny the
15 remaining allegations of Paragraph 30 and, on that basis, deny each and every one of those
16 remaining allegations.

17 31. To the extent Paragraph 31 of the Complaint consists of legal conclusions,
18 Defendants are not required to respond. Answering the factual allegations of Paragraph 31 of the
19 Complaint, Defendants deny each and every one of the allegations of Paragraph 31 of the
20 Complaint, and specifically deny that Cadogan is a “featured artist” on Third Eye Blind sound
21 recordings.

22 32. To the extent Paragraph 32 of the Complaint consists of legal conclusions,
23 Defendants are not required to respond. Answering the factual allegations of Paragraph 32 of the
24 Complaint, Defendants deny: (1) that Cadogan is a “featured artist” on Third Eye Blind sound
25 recordings; and (2) that Cadogan is entitled to “featured artist” royalties collected by
26 SoundExchange for the Sound Recordings. Defendants are without sufficient information or
27 knowledge to admit or deny the remaining allegations of Paragraph 32 and, on that basis, deny
28 each and every one of those remaining allegations.

33. Answering the factual allegations of Paragraph 33 of the Complaint, Defendants allege: (1) that Cadogan is not entitled to “featured artist” royalties collected by SoundExchange for the Sound Recordings; (2) that TEB has informed SoundExchange that Cadogan is not entitled to “featured artist” royalties collected by SoundExchange for the Sound Recordings; and (3) that SoundExchange has frozen distribution of TEB’s digital performance royalties. Defendants are without sufficient information or knowledge to admit or deny the remaining allegations of Paragraph 33 and, on that basis, deny each and every one of those remaining allegations.

34. Defendants deny each and every one of the allegations of Paragraph 34 of the Complaint.

FIRST CAUSE OF ACTION – DECLARATORY RELIEF – RE-RELEASE

35. In answer to Paragraph 35 of the Complaint, Defendants incorporate by this reference their responses set forth in Paragraphs 1 through 27.

36. To the extent Paragraph 36 of the Complaint consists of legal conclusions, Defendants are not required to respond. Answering the factual allegations of Paragraph 36 of the Complaint, Defendants deny: (1) that Cadogan has any rights or duties in or to authorship or copyright ownership of the 4 Sound Recordings; (2) that Cadogan is entitled to ownership of any copyrights in the 4 Sound Recordings; and (3) that Cadogan is entitled to an accounting for, or payment of, monies earned by exploitation of the 4 Sound Recordings, and deny any and all further remaining allegations of the said Paragraph 36, and further deny that Cadogan is entitled to the relief alleged in this paragraph, or to any relief at all. To the extent the allegations of Paragraph 36 of the Complaint suggest that rights in and to the 4 Sound Recordings are owned, in whole or in part, by Cadogan, Defendants specifically deny each and every one of the said allegations.

37. To the extent Paragraph 37 of the Complaint consists of legal conclusions, Defendants are not required to respond. Answering the factual allegations of Paragraph 37 of the Complaint, Defendants deny: (1) that Cadogan has any rights or duties in or to authorship or copyright ownership of the 4 Sound Recordings; (2) that Cadogan is entitled to ownership of

any copyrights in the 4 Sound Recordings; and (3) that Cadogan is entitled to an accounting for, or payment of, monies earned by exploitation of the 4 Sound Recordings, and deny any and all further remaining allegations of the said Paragraph 37, and further deny that Cadogan is entitled to the relief alleged in this paragraph, or to any relief at all. To the extent the allegations of Paragraph 37 of the Complaint suggest that rights in and to the 4 Sound Recordings are owned, in whole or in part, by Cadogan, Defendants specifically deny each and every one of the said allegations.

38. Defendants deny each and every one of the allegations of Paragraph 38 of the Complaint, and further deny that Cadogan is entitled to the relief alleged in this paragraph, or to any relief at all. To the extent the allegations of Paragraph 38 of the Complaint suggest that rights in and to the 4 Sound Recordings are owned, in whole or in part, by Cadogan, Defendants specifically deny each and every one of the said allegations.

39. Defendants deny each and every one of the allegations of Paragraph 39 of the Complaint, and further deny that Cadogan is entitled to the relief alleged in this paragraph, or to any relief at all. To the extent the allegations of Paragraph 39 of the Complaint suggest that rights in and to the 4 Sound Recordings are owned, in whole or in part, by Cadogan, Defendants specifically deny each and every one of the said allegations.

SECOND CAUSE OF ACTION – ACCOUNTING – RE-RELEASE

40. In answer to Paragraph 40 of the Complaint, Defendants incorporate by this reference their responses set forth in Paragraphs 1 through 27.

41. Defendants deny each and every one of the allegations of Paragraph 41 of the Complaint, and further deny that Cadogan is entitled to the relief alleged in this paragraph, or to any relief at all. To the extent the allegations of Paragraph 41 of the Complaint suggest that rights in and to the 4 Sound Recordings are owned, in whole or in part, by Cadogan, Defendants specifically deny each and every one of the said allegations.

THIRD CAUSE OF ACTION – UNJUST ENRICHMENT – RE-RELEASE

42. In answer to Paragraph 42 of the Complaint, Defendants incorporate by this reference their responses set forth in Paragraphs 1 through 27.

43. Defendants deny each and every one of the allegations of Paragraph 43 of the Complaint, and further deny that Cadogan is entitled to the relief alleged in this paragraph, or to any relief at all. To the extent the allegations of Paragraph 43 of the Complaint suggest that rights in and to the 4 Sound Recordings are owned, in whole or in part, by Cadogan, Defendants specifically deny each and every one of the said allegations.

FOURTH CAUSE OF ACTION – DECLARATORY RELIEF – SOUND EXCHANGE

44. In answer to Paragraph 44 of the Complaint, Defendants incorporate by this reference their responses set forth in Paragraphs 1 through 15 and 28 through 33.

45. To the extent Paragraph 45 of the Complaint consists of legal conclusions, Defendants are not required to respond. Answering the factual allegations of Paragraph 45 of the Complaint, Defendants deny: (1) that Cadogan has any right to revenue collected by SoundExchange for the Sound Recordings; (2) that Cadogan is a “featured artist” on the Sound Recordings; and (3) that Cadogan is entitled to “featured artist” royalties collected by SoundExchange for the Sound Recordings, and deny any and all further remaining allegations of the said Paragraph 45, and further deny that Cadogan is entitled to the relief alleged in this paragraph, or to any relief at all. To the extent the allegations of Paragraph 45 of the Complaint suggest that rights in and to the Sound Recordings are owned, in whole or in part, by Cadogan, Defendants specifically deny each and every one of the said allegations.

46. To the extent Paragraph 46 of the Complaint consists of legal conclusions, Defendants are not required to respond. Answering the factual allegations of Paragraph 46 of the Complaint, Defendants deny: (1) that Cadogan has any right to revenue collected by SoundExchange for the Sound Recordings; (2) that Cadogan is a “featured artist” on the Sound Recordings; and (3) that Cadogan is entitled to “featured artist” royalties collected by SoundExchange for the Sound Recordings, and deny any and all further remaining allegations of the said Paragraph 46, and further deny that Cadogan is entitled to the relief alleged in this paragraph, or to any relief at all. To the extent the allegations of Paragraph 46 of the Complaint suggest that rights in and to the Sound Recordings are owned, in whole or in part, by Cadogan, Defendants specifically deny each and every one of the said allegations.

47. Defendants deny each and every one of the allegations of Paragraph 47 of the Complaint, and further deny that Cadogan is entitled to the relief alleged in this paragraph, or to any relief at all. To the extent the allegations of Paragraph 47 of the Complaint suggest that rights in and to the Sound Recordings are owned, in whole or in part, by Cadogan, Defendants specifically deny each and every one of the said allegations.

48. Defendants deny each and every one of the allegations of Paragraph 48 of the Complaint, and further deny that Cadogan is entitled to the relief alleged in this paragraph, or to any relief at all. To the extent the allegations of Paragraph 48 of the Complaint suggest that rights in and to the 4 Sound Recordings are owned, in whole or in part, by Cadogan, Defendants specifically deny each and every one of the said allegations.

FIFTH CAUSE OF ACTION – ACCOUNTING – SOUND EXCHANGE

49. In answer to Paragraph 49 of the Complaint, Defendants incorporate by this reference their responses set forth in Paragraphs 1 through 15 and 28 through 33.

50. Defendants deny each and every one of the allegations of Paragraph 50 of the Complaint, and further deny that Cadogan is entitled to the relief alleged in this paragraph, or to any relief at all. To the extent the allegations of Paragraph 50 of the Complaint suggest that rights in and to the Sound Recordings are owned, in whole or in part, by Cadogan, Defendants specifically deny each and every one of the said allegations.

SIXTH CAUSE OF ACTION – ACCOUNTING – SOUND EXCHANGE

51. In answer to Paragraph 51 of the Complaint, Defendants incorporate by this reference their responses set forth in Paragraphs 1 through 15 and 28 through 33.

52. Defendants deny each and every one of the allegations of Paragraph 52 of the Complaint, and further deny that Cadogan is entitled to the relief alleged in this paragraph, or to any relief at all. To the extent the allegations of Paragraph 52 of the Complaint suggest that rights in and to the Sound Recordings are owned, in whole or in part, by Cadogan, Defendants specifically deny each and every one of the said allegations.

53. Defendants deny each and every one of the allegations of Paragraph 53 of the Complaint, and further deny that Cadogan is entitled to the relief alleged in this paragraph, or to

any relief at all. To the extent the allegations of Paragraph 53 of the Complaint suggest that rights in and to the Sound Recordings are owned, in whole or in part, by Cadogan, Defendants specifically deny each and every one of the said allegations.

PRAYER FOR RELIEF

1. Defendants deny that Cadogan is entitled to the relief requested in this paragraph, or to any relief at all.

2. Defendants deny that Cadogan is entitled to the relief requested in this paragraph, or to any relief at all.

3. Defendants deny that Cadogan is entitled to the relief requested in this paragraph, or to any relief at all.

4. Defendants deny that Cadogan is entitled to the relief requested in this paragraph, or to any relief at all.

5. Defendants deny that Cadogan is entitled to the relief requested in this paragraph, or to any relief at all.

6. Defendants deny that Cadogan is entitled to the relief requested in this paragraph, or to any relief at all.

7. Defendants deny that Cadogan is entitled to the relief requested in this paragraph, or to any relief at all.

8. Defendants deny that Cadogan is entitled to the relief requested in this paragraph, or to any relief at all.

9. Defendants deny that Cadogan is entitled to the relief requested in this paragraph, or to any relief at all.

10. Defendants deny that Cadogan is entitled to the relief requested in this paragraph, or to any relief at all.

11. Defendants deny that Cadogan is entitled to the relief requested in this paragraph, or to any relief at all.

12. Defendants deny that Cadogan is entitled to the relief requested in this paragraph, or to any relief at all.

1 13. Defendants deny that Cadogan is entitled to the relief requested in this paragraph,
2 or to any relief at all.

3 14. Defendants deny that Cadogan is entitled to the relief requested in this paragraph,
4 or to any relief at all.

5 **AFFIRMATIVE DEFENSES**

6 Defendants assert and allege the following affirmative defenses with respect to Plaintiff's
7 claims:

8 **FIRST AFFIRMATIVE DEFENSE**

9 The Complaint and each cause of action therein fails to state facts sufficient to constitute
10 a claim or a cause of action against Defendants.

11 **SECOND AFFIRMATIVE DEFENSE**

12 Plaintiff's claims against Defendants are barred by the lapse of the applicable statute of
13 limitations.

14 **THIRD AFFIRMATIVE DEFENSE**

15 Plaintiff's claims against Defendants are barred or limited, in whole or in part, by the
16 equitable doctrine of waiver.

17 **FOURTH AFFIRMATIVE DEFENSE**

18 Plaintiff's claims against Defendants are barred or limited, in whole or in part, by the
19 equitable doctrine of estoppel.

20 **FIFTH AFFIRMATIVE DEFENSE**

21 Plaintiff's claims against Defendants are barred or limited, in whole or in part, by the
22 equitable doctrine of laches.

23 **SIXTH AFFIRMATIVE DEFENSE**

24 Plaintiff's claims against Defendants are barred or limited, in whole or in part, by the
25 equitable doctrine of unclean hands.

26 **SEVENTH AFFIRMATIVE DEFENSE**

27 Plaintiff's claims against Defendants are barred or limited, in whole or in part, by
28

1 Plaintiff's failure to mitigate some or all of his alleged damages.

2 **EIGHTH AFFIRMATIVE DEFENSE**

3 Plaintiff's claims against Defendants are barred by the written agreement of the parties
4 settling USDC, N.D.Cal., Case No. C00 2157 CW, and Superior Court of the State of California,
5 City and County of San Francisco, Case No. CGC-02-406527.

6 **NINTH AFFIRMATIVE DEFENSE**

7 Defendants have at all times acted in good faith in connection with Plaintiff and his
8 employment as a musician playing with the rock band Third Eye Blind.

9 **TENTH AFFIRMATIVE DEFENSE**

10 Plaintiff at all times consented to any and all of the allegedly wrongful acts alleged in his
11 Complaint.

12 **ELEVENTH AFFIRMATIVE DEFENSE**

13 Plaintiff at all times ratified any and all of the allegedly wrongful acts alleged in his
14 Complaint.

15 **TWELFTH AFFIRMATIVE DEFENSE**

16 Plaintiff's Complaint is barred because there is no basis for the exercise of jurisdiction by
17 this Court.

18 **THIRTEENTH AFFIRMATIVE DEFENSE**

19 Plaintiff lacks standing to bring the claims asserted in the Complaint.

20 **FOURTEENTH AFFIRMATIVE DEFENSE**

21 Plaintiff's claims asserted in the Complaint are not ripe for determination by this Court.

22 **FIFTEENTH AFFIRMATIVE DEFENSE**

23 Defendants affirmatively allege that Plaintiff's damages, if any, are offset by damages
24 suffered by Defendants due to Plaintiff's wrongful acts and omissions.

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SIXTEENTH AFFIRMATIVE DEFENSE

Defendants affirmatively allege that Defendants' allegedly wrongful conduct was justified under the circumstances and that Plaintiff's claims are barred by the doctrine of justification.

SEVENTEENTH AFFIRMATIVE DEFENSE

Defendants affirmatively allege that Plaintiff's Complaint and each cause of action therein is barred by the doctrine of excuse.

EIGHTEENTH AFFIRMATIVE DEFENSE

Defendants affirmatively allege that Plaintiff's Complaint and each cause of action therein is barred by Plaintiff's failure to fulfill his contractual obligations.

NINETEENTH AFFIRMATIVE DEFENSE

Defendants affirmatively allege that because Plaintiff's Complaint is couched in conclusory terms, Defendants cannot fully anticipate all defenses that may be applicable to the within action and, accordingly, Defendants reserve the right to assert additional defenses if and to the extent such defenses are or become applicable. Defendants specifically reserve the right to assert additional affirmative defenses to the extent that factual bases for such affirmative defenses are discovered during the course of this litigation.

PRAYER

WHEREFORE, Defendants pray for judgment as follows:

1. That Plaintiff take nothing by his Complaint;
2. That judgment be entered against Plaintiff and in favor of Defendants; and
3. That Defendants be awarded their attorneys' fees and costs of suit incurred; and

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1 4. For such other relief as the Court may deem just and proper.

2 DATED: January 25, 2019

DICKENSON PEATMAN & FOGARTY P.C.

3
4 By: /s/ Richard Idell

Richard J. Idell

Ory Sandel

5 *Attorneys for Defendants Stephan Jenkins,*
6 *individually and doing business as 3EB*
7 *Publishing, and Third Eye Blind, Inc., a*
8 *California corporation*

9 **DEMAND FOR JURY TRIAL**

10 Defendants hereby demand a trial by jury on all issues raised by Plaintiff's Complaint in
11 this action which are triable by a jury.

12 DATED: January 25, 2019

DICKENSON PEATMAN & FOGARTY P.C.

13
14 By: /s/ Richard Idell

Richard J. Idell

Ory Sandel

15 *Attorneys for Defendants Stephan Jenkins,*
16 *individually and doing business as 3EB*
17 *Publishing, and Third Eye Blind, Inc., a*
18 *California corporation*